

## NOT HELD FOR FIRE

### De Bolt's Decision In Stockyard Case.

Judge De Bolt rendered a written opinion yesterday overruling the demurrer in the case of M. L. Smith vs. Honolulu Stockyards Co., and holding that plaintiff could not be held responsible for the destruction of the defendant's building by fire.

The building occupied by the Honolulu Stockyards Co., on King street was constructed by M. L. Smith, the contract price being \$18,800 and the structure to be completed by August 30th. Under the contract Smith was to receive the sixth payment of \$2,500 upon the acceptance of the structure, and the last payment of \$3,800 was not to be made until thirty-five days thereafter. The building, however, was completed before the time called for in the contract and was accepted by the Honolulu Stockyards Co., on July 8th. Thereafter the structure caught fire and was destroyed.

Judge De Bolt in his opinion says: "The demurrer goes to the point that inasmuch as the plaintiff agreed to erect and complete the building by August 21st, and because he did not, therefore, he cannot recover. There can be no question but that the general rule of law is as stated by counsel and contended for on behalf of the defendant. But this general rule, like all other general rules, has its exceptions, which are founded upon the indispensable principles of common sense and of justice, and which are as well established and binding as the rule itself."

After quoting numerous authorities in support of this contention Judge De Bolt concludes: "I hold the complaint to be sufficient in law and accordingly overrule the demurrer, granting defendant leave to answer within such time as may be fixed upon application."

#### THE AUSTIN CASE GOES OVER.

The Austin mandamus case set for hearing yesterday morning before Judge Gear was continued for one week at the request of C. W. Ashford for the petitioner. A. S. Humphreys appeared in court just as this motion had been granted and was placed on record as attorney for Austin also. The return of the defendants was also filed yesterday, there being an admission of the facts connected with Austin's objection. Then the answer says:

"Respondents allege that on the 25th day of September, 1902, Sanford B. Dole, Governor of the Territory of Hawaii, by virtue of the authority in him vested by law, suspended the said petitioner Herbert C. Austin from the office of Auditor of said Territory for good and sufficient cause, and statutory cause, to his satisfaction shown and proved, and to him confessed by the said Austin."

"That the said Governor then and there notified the said petitioner, in writing, of such suspension and of the reasons thereof, and of the charges whereon said Governor had acted."

"That thereafter and on the 25th day of September, 1902, the said Governor notified the said petitioner Herbert C. Austin to show cause, if any he had, why such suspension should not be continued in force until his official conduct as Auditor of the Territory of Hawaii could be submitted to and acted upon by the Senate of the Territory of Hawaii; and appointed as the time and place for said hearing the 29th day of September, 1902, at 10 o'clock in the forenoon of said day at the Executive Chamber."

"That, pursuant to the notification last referred to, said petitioner appeared before the said Governor at the time and place set, and thereupon said Governor offered to produce before said petitioner the witnesses to the facts in the charges hereinbefore referred to, and to introduce the testimony in support thereof; that the said petitioner declined and refused to be present upon the examination of such witnesses and declined and refused to hear such testimony, and then and there declined to show any cause why the said suspension should not remain in force; and claimed that he was not, and, under the law, could not be, legally suspended from said office."

"That the said petitioner Herbert C. Austin declined and refused to comply with the order of said Governor made on the 25th day of September, 1902, suspending said petitioner as aforesaid; and declined and refused to vacate the rooms set apart for the use of the auditing department of said Territory, and persisted in retaining the office and functions thereof from which he had been suspended; and thereupon, on the 27th day of September, 1902, said Governor ordered and directed the respondent Edmund P. Dole, as Attorney General of said Territory, to sue that the order of suspension was duly executed; and in that behalf the respondent Edmund P. Dole, as Attorney General and Ex-officio head of the Police Department of said Territory, instructed the respondent Arthur M. Brown, as High Sheriff, to station a police officer at the door of the office of the Auditor to prevent said petitioner Herbert C. Austin from retaining and exercising the functions of the office from which he had been so suspended; and the said respondent Arthur M. Brown, as High Sheriff, obeyed said instructions and stationed a police officer for the purpose aforesaid; that the respondent Henry C. Meyers, by direction of the Governor of the Territory of Hawaii, upon the suspension of the petitioner Herbert C. Austin assumed and has continued to perform all the duties and functions of the said office."

"That said respondents in all of their acts and doings in the premises have been subject to and have obeyed the orders of the Governor of the Territory of Hawaii."



## COMMERCIAL

Interest during the week just passed, in financial circles, has been divided between the merger plan of the firm of Brewer & Company, as affecting four plantations which the company controls, and the status of Kona Sugar Company. The latter is now in the hands of a committee which will attend to the process of winding up its affairs, and the other is fairly launched.

The Kona company's business is to be sold out by a Third Circuit Court order, if the petition provided for by the meeting of the stockholders finds favor in the eyes of Judge Edging. This decision was reached by the directors when they discovered that the operation of the estate under Receiver Scott bade fair to leave the plantation in worse shape than it is now, owing to lack of labor and incapacity of the mill to handle the crop fast enough to prevent deterioration. No one will discuss the future of the property, one of the leading bondholders saying that he had formed no opinion as the matter had not been brought officially to his notice.

There has been little discussion during the week over the Brewer merger plan, which has taken into consideration all the features of the case, and it is safe to say that there are holders of shares of the plantations named who have not acquainted themselves thoroughly with the proposition. There has been some stock turned in for transfer, and according to the belief of many men who looked over the situation there will be much more. The holders of Onomea are said to be the most attracted by the plan, with Honoumuli, in fact one of the purchases of the latter stock during the week was for the purpose of securing the advantage which the buyer thinks lies in the change of shares. On the other hand the holders of Hawaiian Agricultural and Walluku are less favorable to the plan. On every hand however there is commendation of the move on the part of Brewer & Company, since with the holdings of the firm in the four plantations, they are making a security which is better, year for year, than the individual stocks, while not in any way abandoning entire control of the plantations.

The market during the week past has been marked by the absence of sellers. There is a strong demand for good stocks but the market is not in shape that those who have watched the movements of the times are willing to bring out shares. Most of the sales were made under pressure as the time for the payment of taxes is here, and there is a general movement looking to the hoarding of money against that event. The banks have been holding back loans for some time in anticipation of greater demands, and they feel that they are now in fair shape to meet the calls of their regular patrons, and at the same time attend to the business of the city.

Most of the shares transferred during the week were of Ewa. The largest block was of 325 shares which was sold at the old price of \$22, but in addition there were sales of 150 shares, at an advance of a half point, the price, \$22.50, being the closing one of the week. Waiuku followed Ewa in advancing, there being sales of sixty-five shares at \$25.50, which is \$2.50 above the last price chalked up for this plantation. Olua also took the upward turn and the prices were made \$5 and \$4, which is a fractional betterment on both the assessable and paid stock.

Honoumuli was twice traded in, and each time the blocks were small. Only nineteen shares were transferred and these were at par. This is a drop since the last sale which was some time ago, but indicates firmness as the shares were offered privately for less. Ooakala was down to \$74, which represents a small decline, due to lack of demand for this stock rather than to any outside influence.

There is a healthier feeling in the market owing to the fact that the sugar market abroad seems to have an upward tendency. The fact that there was an advance of a penny and a half in beets in one day, seems to indicate that there is a turning point very soon. The words of J. F. Harkfield, in the Advertiser, have caused some comment on the street, as it is the feeling that his view of the market is the one which should be taken by the people here. Many persons consider that the market is strengthened simply by his views freely expressed.

#### REAL ESTATE.

There is a small demand for houses for rent, which cannot be met, owing to the fact that the empty tenements are too small for the at present average would be renter. One firm has a number of small houses but is hunting for a larger house for a customer. Prices having become a little easier there seems little doubt but that the market will be brisk for some time.

The transfers of the week have all been small. The lots sold by the dealers have been in the outside districts and they have been on the installment plan. There is a deal of small building, principally in the Kalihi and Nuuanu districts, and as these residences are being put up by the men who will occupy them, there is a better state of affairs represented by the movement. Chinatown buildings recently burned have been almost all replaced and business is moving into them rapidly, as possible.

Among the new residences contracted for in the week past, is that of Clarence Cooke, which will be rushed along as rapidly as possible. This house will stand at the head of Pihoko street and will be an ornament to the locality. The first house in the Boardman addition is nearing completion, the lot occupied being that at the corner of Kapiolani and Lunaliio. The architects report some little inquiry for their services, but nothing large under immediate contemplation.

#### THE HOLT CASE AGAIN.

An answer was filed yesterday to the petition of The Hawaiian Trust Co. for permission to intervene in the Holt will case as trustee for George A. Aldrich. The Holts answer that the petitioner has no interest in the suit, for the reason that Aldrich was declared non compos mentis in Alameda, California, and consequently had no power to convey his interest in the Holt estate to the petitioner.

#### BROWN MUST COME BACK.

C. A. Brown, who went to San Francisco in the Sonoma last Tuesday thinking that his interests in the II Estate were safe may wish he was in Honolulu again. Prior to his departure the attorneys on both sides stipulated that Brown might leave the Territory and should be given sixty days before the case of Brown vs. A. W. Carter et al. should be called up, and before any action should be taken by defendants. Yesterday the following notice was filed in court:

"Notice is hereby given you that any consent to the departure of C. A. Brown from the Territory of Hawaii and the appointment of J. A. Magoon in his place as Treasurer and Manager attempted to be given by Robertson and Wilder, acting as attorneys for the defendants in the above entitled suit, by stipulation herein dated, October 28, 1902, or otherwise is hereby forthwith cancelled, revoked, annulled and withdrawn."

#### "ROBERTSON & WILDER."

"Attorneys for defendants." The defendants may now seek to enforce the by-law adopted two weeks ago by which it was provided for the filling of the place of the manager of the estate in the event of his absence from the territory. Magoon is acting in Brown's place and trouble is expected.

#### COURT NOTES.

M. T. Simonton as referee reported yesterday on the evidence taken in the case of McChesney vs. Paris. He made no finding of fact in the case.

C. J. Falk has asked to be appointed guardian of Susan Branch, an alleged insane person.

An answer has been filed in the case of H. C. Eason vs. Robert McBride by A. M. Brown garnishee, in which he denies having any property of defendant in his possession.

#### TIMELY TOPICS.

Mr. Baer must think by this time that it takes a man with a divine right a long time to win a victory.—The Columbus Dispatch.

The czar of Russia told his subjects that a man could not get rich by seizing the property of another. He might have explained that it was different with a nation.—The Chicago News.

Let's see: Mr. Roosevelt is quite positive that we cannot handle the trusts without a constitutional amendment, and equally positive that we can handle the Philippines without any constitutional authority whatever.—The Commoner.

The outcome of Senator Tom Platt's predictions regarding the coal strike and the action of the New York Republican convention indicates that Platt would have made a great official weather forecaster.—The Kansas City Journal.

The Dublin, Ind., woman who tied her sunbonnet to a post and threw herself into the canal made a serious error. How much better it would have been if she would have tied herself to the post and thrown the sunbonnet into the canal.—The Chicago Record-Herald.

The New York Herald has come out for "Roosevelt and Dewey, the people's anti-trust candidates for 1904." Evidently Mr. Bennett has been sending word over to the boys to brighten the paper up with a little humor now and then.—The Chicago Record-Herald.

Streets to be Paved With Gold—This sounds somewhat extravagant, yet it is true, nevertheless, that the streets of Reading, Cal., will be paved with quartz which is estimated to assay about \$4 per ton of gold. The rock is low-grade quartz, and is very abundant in this locality, consequently it is cheaper to use this on the streets than to import the material from a distance.—The Municipal Journal and Engineer, New York.

## TO GROW VANILLA

### E.H. Edwards From Fiji With Cuttings.

Edward H. Edwards, of South Kona, was one of the passengers who arrived in Honolulu on the Mowera on Saturday. Mr. Edwards returned from Fiji where he has been securing cuttings of vanilla vines which he will use on his vanilla plantation at Napoosop.

This vanilla planter is an Englishman who has had considerable experience on that sort of plantations, having been engaged for some time in the Seychelles Islands, growing the valuable vanilla beans. He came to Hawaii less than two years ago and took up land at Napoosop but had been unfortunate in securing the cuttings for establishing his work and so decided to personally visit Fiji, do his own selection, superintend the packing and preparations for transit himself.

The plants secured by Mr. Edwards on this trip to Fiji are a fine lot. He packed about a hundred cases which contain some twelve thousand plants. On arrival in Honolulu Saturday he was disappointed with the way the cases had been treated in transit and by the stevedores and he says that a percentage of the plants died in transit but that those that are left are in such a healthy condition and of large enough quantity to put his plantation on a substantial basis.

Vanilla bean growing is a profitable undertaking when the planter labors under favorable conditions as there is always a steady market for the product. Mr. Edwards took up land at Napoosop and has cleared twenty-five acres of it and on this ground he will immediately plant the shipment of cuttings brought from Fiji on the "all-red" steamer.

As the present outlook is that his trip to Fiji has been a success as far as securing cuttings for a firm start are concerned Mr. Edwards says he knows no reasons why vanilla cultivation should not be a complete success here. During late years the cultivation of vanilla in many places in which it was not formerly attempted has been undertaken with considerable success. More of the product has been placed on the market each year but this has not cheapened its price to any extent. The beans are worth anywhere from \$2 to \$20 per pound and as beans hitherto grown in small quantities here have been graded as of very high quality vanilla plantations on a large scale should be successful in Hawaii.

During the month of March, of this year, the supply of vanilla placed on the world's markets was the heaviest on record. There was a big demand for the goods and the whole supply of about 2,800 tons was sold. Vanilla pods are classified in the market according to their length, color, and plumpness, the longest ones bringing the best price. Tahiti grows large quantities of vanilla beans and always finds a good market for them in England and France. The Seychelles have also produced large quantities of the article and only recently German corporations have commenced their cultivation in German Samoa, and reports from the latter point say that the outlook for the future of the industry there is very promising.

At present vanilla is only grown in a scattered manner in these islands. Mr. Allan Herbert, of Kalihi, has a few vines but these are kept mostly for ornament, although he secured as many as a hundred and three pods from one vine, showing that the beans grow well in this climate and under conditions of cultivation which exist here.

## HEARKEN YE!

To the Voice of Honolulu People.

If you will but listen to your friends and neighbors they will tell you how the pains and aches of a bad back, the annoyances of urinary troubles, the nervousness, the restlessness which come from kidney ills can be relieved and cured. Read what one Honolulu citizen says:

Writing under date of January 10th, 1899 Jurgen Walter of this city tells us as follows: "My age is 79—well past the ordinary span of life—and I am the parent of eight children. Being so far advanced in years, I regard the relief obtained from Doan's Backache Kidney Pills."

I suffered from a lame back for years, but after taking some of the pills (procured at Hollister's drug store) was greatly benefited, and I am satisfied the pills did me much good."

Our kidneys filter our blood. They work night and day. When healthy they remove about 500 grains of impure matter daily, when unhealthy some part of this impure matter is left in the blood. This brings on many diseases and symptoms—pain in the back, headache, nervousness, hot, dry skin, rheumatism, gout, gravel, disorder, eyesight and hearing, dizziness, irregular heart, debility, droopiness, dropsy, deposits in the urine, etc. But if you keep the filters right you will have no trouble with your kidneys."

Doan's Backache Kidney Pills are sold by all chemists and storekeepers at 50 cents per box, or will be mailed on receipt of price by the Hollister Drug Co., wholesale agents for the Hawaiian Islands.

THE ELUSIVE PIGSKIN is the source of much sport and the cause of many injuries. Foot-ball players should use Chamberlain's Pain Balm, an antiseptic liniment, especially valuable for sprains and bruises. One application gives relief. Try it. All dealers and druggists sell it. Benson, Smith & Co., Ltd., agents for Hawaii.

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Red, Rough Hands, Itching Burning Palms and Painful Finger Ends

## ONE NIGHT TREATMENT

Soak the hands on retiring in a strong, hot, creamy lather of CUTICURA SOAP. Dry, and anoint freely with CUTICURA, the great skin cure and purest of emollients. Wear, during the night, old, loose kid gloves, with the finger ends cut off and air holes cut in the palms. For red, rough, chapped hands, dry, fissured, itching, feverish palms, with shapeless nails and painful finger ends, this treatment is simply wonderful.

## Millions of Women Use Cuticura Soap

Exclusively for preserving, purifying, and beautifying the skin, for cleansing the scalp of crusts, scales, and dandruff, and the stopping of falling hair, for softening, whitening, and soothing red, rough, and sore hands, in the form of baths for annoying irritations, inflammations, and chafings, or too free or offensive perspiration, in the form of washes for ulcerative weaknesses, and for many sanative antiseptic purposes which readily suggest themselves to women, and especially mothers, and for all the purposes of the toilet, bath, and nursery. No amount of persuasion can induce those who have once used it to use any other, especially for preserving and purifying the skin, scalp, and hair of infants and children. CUTICURA SOAP combines delicate emollient properties derived from CUTICURA, the great skin cure, with the purest of cleansing ingredients and the most refreshing of flower odors. No other medicated soap ever compounded is to be compared with it for preserving, purifying, and beautifying the skin, scalp, hair, and hands. No other foreign or domestic toilet soap, however expensive, is to be compared with it for all the purposes of the toilet, bath, and nursery. This it combines in ONE SOAP at ONE PRICE, the best skin and complexion soap, the BEST toilet and BEST baby soap in the world.

Complete External and Internal Treatment for Every Humour. Consisting of CUTICURA SOAP, to cleanse the skin of crusts and scales and soften the thickened cuticle, CUTICURA Ointment, to instantly allay itching and irritation and soothe and heal, and CUTICURA RESOLVENT, to cool and cleanse the blood. Aust. Depot: R. Towns & Co., Sydney, N. S. W. So. African Depot: LENSSEN LTD., Cape Town.

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NOV. 22 DORIC .....	NOV. 25 NOV. 25
NOV. 22 NIPPON MARU .....	DEC. 5 DEC. 5
NOV. 22 PERU .....	DEC. 10 DEC. 10
NOV. 22 PERU .....	DEC. 18 DEC. 18
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For further information apply to

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Well, there are a lot of them here this year and shooting is going to be good. To be able to get the most out of their visit you should have one of our fine new

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DR. J. COLLIS BROWNE'S CHLORODYNE—Vice Chancellor SIR W. PAGE WOOD stated publicly in court that DR. J. COLLIS BROWNE was undoubtedly the INVENTOR OF CHLORODYNE; that the whole story of the defendant, Freeman, was deliberately untrue, and he regretted to say it had been sworn to. See the Times, July 18, 1884.

DR. J. COLLIS BROWNE'S CHLORODYNE is a liquid medicine which assuages PAIN OF EVERY KIND, affords a calm, refreshing sleep WITHOUT HEADACHE, and INVIGORATES the nervous system when exhausted. IS THE GREAT SPECIFIC FOR CHOLERA, DYSENTERY and DIARRHOEA.

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